

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

YUKIO KUSADA,
Plaintiff,

v.

BERKSHIRE EAST SKI RESORT, UNION
TERMINAL PIERS, INC.,
Defendants,

and

NORTHFIELD MOUNT HERMON SCHOOL,
FRANCIS MILLARD AND MICHAEL
ATKINS
Defendant and
Third-Party Plaintiff,

v.

TAKERU KUSADA,
Third-Party Defendant.

Civil Action No. 05-30043-MAP

AFFIDAVIT OF JASPER E. SHEALY, Ph.D.

I, Jasper E. Shealy on oath depose and say:

1. I reside at 425 French Road, Rochester, New York.
2. I have a PhD. in Industrial Engineering, (Human Factors Engineering) from State University of New York at Buffalo.
3. From 1973 to 2001, I taught undergraduate and graduate level courses in Ergonomics, Human Factors Engineering, Statistics, Engineering Design, Engineering Risk Benefit Analysis and Safety Engineering among other topics.
4. I taught primarily at the Rochester Institute of Technology, but I also lectured at the Massachusetts Institute of Technology Center for Product Design as well as several European, Japanese and Chinese Universities.

5. Alpine winter sports injury research is my primary professional research interest.

6. Since 1973, I have authored, or co-authored more than 100 papers and presentations, mostly on various aspects of skiing and snowboarding injury research.

7. I have served as co-editor for the last four consecutive American Society for Testing and Materials International (ASTM) Special Technical Publications,; Volumes 13, 14, 15 and 16 of the Skiing Trauma and Safety services.

8. I have been a member of the ASTM F27 committee for Snow Skiing since 1973. I have been the Chairman of the ASTM F27 committee since 1999. Prior to that for a period of six years, I was Vice Chair of the F27 Committee.

9. I presently serve as one of three Technical Delegates to the International Standards Organization (ISO) representing U.S. interests for standards relating to skiing and snowboarding.

10. I was an active Ski Patroller in the U.S. National Ski Patrol System from 1975 to 1985.

11. I have served as an invited faculty member and/or keynote speaker to numerous international congresses and medical association meetings on the topic of ski and snowboard trauma.

12. Since 1980 I have been part of a research group (R. J. Johnson MD, C.F. Ettlinger MS, and J.E. Shealy PhD.) The research group is conducting an ongoing epidemiological case-control study of skiing and snowboarding injuries at Sugarbush Vermont. This study began in the winter of 1972, and continues to this date. Many of my publications dealing with ski and snowboard injury research come from this collaboration.

13. I have testified before the United States Consumer Product Safety Commission on the topic of head injuries and the role of helmets in winter sports. I have also testified before the New Jersey State Senate on the same topic.

14. I have conducted three United States national statistical surveys of winter sports injuries at ski resorts in the United States for the time periods of 1980, 1990 and 2000. These studies are based on a representative statistical sample of ski resorts across the United States. These three studies are based on approximately 60,000 ski patrol incident reports that occurred over approximately 24 million visits to those resorts during the three time periods of the various studies.

15. I am familiar with snow sports helmet use in the United States for recreational skiers. With no known exceptions, in the United States, mandatory recreational snow sports helmet usage for alpine skiing is not the rule in school districts.

16. As of the 2002/03 winter season, to the best of my knowledge, only four of the nation's 490 operating ski resorts mandated use of a helmet for children in ski-school. The four areas were: Aspen Skiing Company, CO, Crested Butte, CO, Powderhorn, CO and Shawnee Mountain, ME. Aspen set the age limit to those under 12. Vail Resorts as of May 2005 recommended helmets for students under 14, but did not require them.

17. The National Ski Areas Association's position is to recommend, but not require that helmets be used; this is also the position of the American Medical Association.

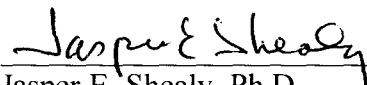
18. The policy of Northfield Mount Hermon School of recommending, but not requiring the use of a recreational snow sports helmet for skiing is consistent with current general helmet utilization policy throughout the United States.

19. In the United States, no state or federal laws require the use of recreational snow sports helmets for skiing or snowboarding for any age. This is in contrast to virtual uniform requirements for helmets for such activities as children riding bicycles (commonly mandatory for ages up to sixteen in many states and municipalities), or for children participating in organized baseball and football.

20. The NMH school policy of recommending, but not requiring the use of a recreational snow sports helmet at the time of this incident was consistent with common ski helmet policy of the time in the United States.

21. The NMH school policy of recommending, but not requiring the use of a recreational snow sports helmet at the time of this incident was not in violation of any state or federal requirement.

Signed under the pains and penalties of perjury this 17th day of November, 2006.


Jasper E. Shealy, Ph.D.

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CERTIFICATE OF SERVICE

I hereby certify that the document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 27, 2006, via first class mail.


Harold W. Potter, Jr.